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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/092,368	03/06/2002	Yefim Massarsky	16816-00015	1611

7590 09/20/2005

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EXAMINER	
HUYNH, THU V	
ART UNIT	**PAPER NUMBER**
2178	

DATE MAILED: 09/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/092,368	MASSARSKY, YEFIM	
	Examiner	Art Unit	
	Thu V. Huynh	2178	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *23 June 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-30* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-30* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. This action is responsive to communications: amendment filed on 06/23/2005 to application filed on 03/06/2002, which is a continuation of application 09/258,922 (US patent 6,385,628) filed on 03/01/1999, which is a continue in-part of application 08/961,780 filed on 10/31/1997 (US patent 6,021,417).

2. Claims 1, 3, 6-8, 11-12, 14, 18-21, 24, 28-30 are amended.

3. Claims 1-30 are pending in the case. Claims 1, 14, 27 are independent claims.

4. The rejections of claims 1-4, 7-15, 17-18, 20-27 under double patenting of US patent 6,021,417 have been withdrawn in view of the terminal Disclaimer.

5. There are two sets of rejections of claims 1-26, 28-30. First set starts at bottom of page 4, paragraph 11; and second set starts at page 17, paragraph 17.

Terminal Disclaimer

6. The terminal disclaimer filed on 06/23/2005 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of patent granted on Patent Number 6,021,417 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Claim Rejections - 35 USC § 112

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 1-16, 28-30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term "proximate" in claims 1 and 14 is a relative term which renders the claim indefinite. The term "proximate" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. It is not clear what the meet and bound in the context of claims 1 and 14.

Dependent claims 2-13, 15-26, 28-30 are rejected for fully incorporating the dependencies of their base.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claim 27 is rejected under 35 U.S.C. 102(b) as being anticipated by Blank, US 5,469,536, issued 1995.

Regarding independent claim 27, Blank teaches the steps of:

- a means for accepting monetary payment to enable creation of the printed output (Blank, fig.2, col.9, lines 5-40, "payment adapter" for accepting monetary payment);
- a printer (Blank, fig.2, printer);
- a computer with memory (Blank, fig.2, col.6, lines 37-40; computer processor 130 must has a memory for storing an image in order to display on the image on the screen to the user for editing);

- means for storing an image in the computer memory (Blank, col.10, line 63 – col.11, line 18; storing selected image, a background image and/or image in figure 25a);
- means for selecting a mock artist having a predetermined artistic style (Blank, col.46, lines 11-21; col.51, lines 6-25; allowing the user selects marble texture having veins and color or a red color from many colors to change the texture of an area or an object);
- means for storing at least one display texture corresponding to the selected mock artist's predetermined artistic style (Blank, col.46, lines 11-21; col.51, lines 6-25; storing the selected marble texture or red color for using in a brush or memory in order to paint or replace the area(s) or object(s) in the selected texture/color);
- means for substituting one or more of the stored textures for different areas of the stored image to create an electronic mock artist's drawing or painting image corresponding to the selected artist's predetermined artistic style (Blank, col.46, lines 11-21; col.51, lines 6-25; replacing the yellow color to red color); and
- means for printing the mock artist's image (Blank, fig.2, col.9, lines 5-40; allowing printing an edited image form the computer).

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

12. Claims 1-7, 13-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blank, US 5,469,536, issued 1995 in view of Itoh et al., US 5,630,038, filed 1995 and Borovoy et al., US 5,537,529, filed 04/1993.

Regarding independent claim 1, Blank teaches the steps of:

- storing at least one display texture corresponding to a mock artist style (Blank, col.42, lines 51-65 and col.46, lines 11-21; col.51, lines 6-25; storing the selected marble texture or red color for using in a brush or memory in order to paint or replace the portions of an image in the selected texture/color);
- selecting a plurality of portions of the electronically stored image according to a sequence, at least a plurality of such portions each including a plurality of pixels that are proximate to one another and together form a contiguous portion of the image display (Blank, col.37, lines 16-20; col.42, lines 51-65 and col.46, lines 11-21; col.51, lines 6-25; user is able to sequentially select each portion of plurality of portions of the image to apply texture on portions of the image so that the whole image is completed painting); and
- sequentially displaying on the monitor representations of each selected portion of the electronically stored image using at least one stored display texture in each selected portion, to create the display image over time as a series of sequentially-displayed portions (Blank, col.42, lines 51-65 and col.46, lines 11-21 col.51, lines 6-25; sequentially displaying on the monitor the applied texture, such as painting each portion of the image using special effects, such as brush stroke as the user selected sequence).

Blank teaches special effects including gradually blending images and using airbrush to spray paint effect (Blank, col.28, lines 28-35; col.44, lines 10-48). However, Blank does not explicitly disclose gradually displaying portions and the selecting step and displaying step are automatically steps.

Itoh teaches gradually displaying the paint effect on a portion of an image using a stylus pen (Itoh, col.1, lines 40-43; col.3, lines 25-30; col.4, lines 60-67 and col.5, lines 36-55).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have combined Itoh and Blank to enhance gradually painting in special effects when manipulate the image. It is noted that gradually paint a portion of an image on a screen was also well known in the art at the time the invention was made to provide an attractively smooth or gradually transition (see Busch, US 3,944,731, issued 1976, background, col.1, lines 10-25; Nishimura, US 5,303,041, filed 1992, background, col.2, line 55 – col.3, line 5 and Kitaura et al., US 5,425,111, col.2, line 64 – col.3, line 6).

Borovoy teaches recording interactions of creating a version of graphic document in a sequence and the record is able to be playback so that another person may be viewed in a live environment (Borovoy, col.3, lines 6-16; col.6, lines 22-29, 57-59).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have combined Borovoy's teaching into Blank, Itoh, and Borovoy's teaching to record interactions of painting the image, since the combination would have "provided to another person as a communication that may be viewed in a live environment" as Borovoy disclosed.

Regarding claim 2, which is dependent on claim 1. Blank explicitly discloses the step of creating a hard copy of the image displayed on the monitor after the display image has been fully created by the display of all of the portions of the electronically stored image (Blank, col.14, lines 19-21 and fig.2, printer 118).

Regarding claim 3, which is dependent on claim 1. Blank explicitly discloses wherein the selecting step includes the step of identifying groups of pixels in the electronically stored image which have similar display parameter values as a single portion, wherein the parameter values of each selected portion are different from the parameter values of the other selected portions (Blank, col.34, lines 14-17; col.42, lines 51-65; col.46, lines 11-21 and col.51, lines 6-25; identifying groups of pixels in the electronically stored image which are yellow to apply red color and the user is able to change groups of pixels in green to any color that the user desires). Bank does not explicitly disclose the identifying groups of pixels step is automatically performed.

Borovoy teaches recording interactions of creating a version of graphic document in a sequence and the record is able to be playback so that another person may be viewed in a live environment (Borovoy, col.3, lines 6-16; col.6, lines 22-29, 57-59).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have combined Borovoy's teaching into Blank, Itoh, and Borovoy's teaching to record interactions of painting the image, since the combination would have "provided to another person as a communication that may be viewed in a live environment" as Borovoy disclosed.

Regarding claim 4, which is dependent on claim 3. Refer to the rationale relied to reject claim 25, "display parameter values is color values" is addressed. The rationale is incorporated herein.

Regarding claim 5, which is dependent on claim 1. Blank explicitly discloses wherein the selecting step includes the step of determining a display sequence for the portions of the electronically stored image such that a least on of selected portion in the sequence is not contiguous with an immediately preceding selected portion in the sequence (Blank, col.42, lines 51-65; col.46, lines 11-21; and col.51, lines 6-25; the user is able to select the yellow leave as first portions to change the color of the first portions and blue clouds as the second portions which are separate with the first portion to change colors of the second portions).

Regarding claim 6, which is dependent on claim 1. Blank explicitly disclose the steps of identifying groups of pixels in the electronically stored image which have similar parameter values as single portions and determining a sequence for the portions of the electronically stored image such that separate portions having similar display parameter values are grouped in the sequence (Blank, col.42; lines 51-65; col.46, lines 11-21 and col.51, lines 6-25; identifying groups of pixels in the electronically stored image which are yellow to apply red color). Bank does not explicitly disclose the identifying groups of pixels step is automatically performed.

Borovoy teaches recording interactions of creating a version of graphic document in a sequence and the record is able to be playback so that another person may be viewed in a live environment (Borovoy, col.3, lines 6-16; col.6, lines 22-29, 57-59).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have combined Borovoy's teaching into Blank, Itoh, and Borovoy's teaching to record interactions of painting the image, since the combination would have "provided to another person as a communication that may be viewed in a live environment" as Borovoy disclosed.

Regarding claim 7, which is dependent on claim 1. Refer to the rationale relied to reject claim 1, the limitation of "gradually displaying the representation for at least one portion" is included. The rationale is incorporated herein.

Regarding claim 13, which is dependent on claim 1. Blank explicitly teaches an image device for capturing and storing the electronically stored image (Blank, abstract, fig.1 and 2, camera 106; col.10, lines 40-53 and col.10, line 63 – col.11, line 11).

Regarding independent claim 14, claim 14 is for a computer system performing the method of claim 1, and is rejected under the same rationale. Blank further discloses:

- a memory storing an electronic image (Blank, abstract and fig.2, computer processor must has a memory for storing an image in order to display on the image on the screen to the user);

- a monitor (Blank, fig.2, item 110); and
- a memory storing at least one display texture corresponding to a texture style (Blank, abstract and col.46, lines 11-21, computer processor must has a memory for storing at least one color texture to paint the image).

Regarding claim 15, which is dependent on claim 14. Blank discloses an image capture device for capturing and storing the electronically stored image (Blank, abstract, fig.1 and 2, camera 106; col.10, lines 40-53 and col.10, line 63 – col.11, line 11).

Regarding claim 16, which is dependent on claim 15. Blank discloses the image capture device is a video camera (Blank, abstract, fig.1 and 2, camera 106; col.10, lines 40-53 and col.10, line 63 – col.11, line 11).

Regarding claim 17, which is dependent on claim 14. Blank discloses an output device for creating a hard copy of the displayed image (Blank, abstract, fig.2, printer 118; col.10, lines 40-53 and col.10, line 63 – col.11, line 11).

Claims 18-20 are for computer system performing the method of claims 3 and 6-7 respectively, and are rejected under the same rationale.

13. Claims 8, 10, 21, 23, 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blank in view of Itoh and Borovoy as applied to claim 7 above, and further in view of Kiss, US 5,687,304, issued priority filed 1994.

Regarding claim 8, which is dependent on claim 7. Blank, Itoh, and Borovoy teaches automatically painting the image in live environment as explained above. Blank teaches wherein the displaying step further includes the step of displaying an icon on the monitor, and moving the icon on the monitor at areas to select portions (Blank, col.31, lines 10-11, lines 23-24, and 28-35).

Kiss teaches display an icon on the monitor, and moving the icon across the monitor at areas corresponding to the selected portions; displaying the representation of each selected portion along the path traversed by the icon (Kiss, col.1, lines 32-43; col.4, lines 26-31; and col.8, lines 5-14).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have combined Kiss into Blank, Itoh, and Borovoy to provide a brush stroke on the screen during painting, since it would have provided realistic painting or drawing as Kiss disclosed in col.8, lines 10-13. It is noted that display a moving icon across the areas for painting these areas was well known in the art at the time the invention was made (see Kermisch, US 4,751,503, filed 1984, col.4, lines 50-60).

Regarding claim 10, which is dependent on claim 8. Blank teaches wherein the displaying step further includes the step of displaying an icon on the monitor, and moving the icon on the monitor at areas to select portions (Blank, col.31, lines 10-11, lines 23-24, and 28-35).

Kiss teaches displaying an icon on the monitor, and moving the icon across the monitor at areas corresponding to the selected portions (Kiss, col.1, lines 32-43; col.4, lines 26-31; and col.8, lines 5-14).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have combined Kiss into Blank to provide a brush stroke on the screen during painting, since it would have provide a realistic painting or drawing as Kiss disclose in col.8, lines 10-13. It is noted that display a moving icon across the areas for painting these areas was well known in the art at the time the invention was made (see Kermisch, US 4,751,503, filed 1984, col.4, lines 50-60).

Claims 21 and 23 are for a computer system performing the method of claims 8 and 10 respectively and are rejected under the same rationale.

Regarding dependent claim 28, which is dependent on claim 8. Blank teaches after at least some of the selected portion are displayed, deleting at least some of one or more portions and then recreating the deleted portions (Blank, col.7, lines1-11; col.49, lines 40-45). Blank does not explicitly disclose automatically deleting the textures.

Borovoy teaches recording interactions of creating a version of graphic document in a sequence and the record is able to be playback so that another person may be viewed in a live environment (Borovoy, col.3, lines 6-16; col.6, lines 22-29, 57-59).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have combined Borovoy's teaching into Blank, Itoh's teaching to record

interactions of painting the image, since the combination would have "provided to another person as a communication that may be viewed in a live environment" as Borovoy disclosed.

14. Claims 9, 22, 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blank in view of Itoh and Borovoy and further in view of Kiss as applied to claims 8 and 28 above, and further in view of Mizutani, US 5,844,565, priority filed 1994.

Regarding claim 9, which is dependent on claim 8. Blank does not explicitly teach wherein the icon is moved according to a predetermined pattern.

Mizutani teaches simulating brush strokes in a variety of directions, including perpendicular to enhance the simulation of painting techniques (Mizutani, col.2, lines 9-30 and col.7, lines 15-25).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have combined Mizutani and Blank, Itoh, and Borovoy to provide directions of the brush stroke to paint portions of the image, since this would have enhanced the simulation of painting the image as Mizutani disclosed.

Claim 22 is for a computer system performing the method of claim 9 and is rejected under the same rationale.

Regarding claim 29, which is dependent on claim 28. Blank does not explicitly disclose wherein the deleting takes the appearance of erasing, wherein the icon is automatically moved over the portions being deleted and then again as they are recreated. Mizutani teaches simulation

brush strokes in including perpendicular to enhance the simulation of painting as well as erasing techniques (Mizutani, col.2, lines 9-30; col.5, lines 61-65 and col.7, lines 15-25).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have combined Mizutani and Blank and Itoh to provide directions of the brush stroke to paint or erase portions of the image, since this would have enhanced the simulation of painting the image as Mizutani disclosed.

Borovoy teaches recording interactions of creating a version of graphic document in a sequence and the record is able to be playback so that another person may be viewed in a live environment (Borovoy, col.3, lines 6-16; col.6, lines 22-29, 57-59).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have combined Borovoy's teaching into Blank, Itoh's teaching to record interactions of painting the image, since the combination would have "provided to another person as a communication that may be viewed in a live environment" as Borovoy disclosed.

15. Claims 11-12 and 24-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blank in view of Itoh and Borovoy as applied to claim 1 above, and further in view of Mizutani, US 5,844,565, priority filed 1994.

Regarding claim 11, which is dependent on claim 1. Blank teaches colors and marble style of textures on paint effects (Blank, col.46, lines 10-21).

Mizutani teaches simulating painting brush stroke using many of texture corresponding to a plurality of mock artist's styles (Mizutani, col.1, lines 44-46, col.2, lines 31-35, col.4, lines 20-37; "oil painting" and "watercolor").

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have combined Mizutani and Blank, Itoh, and Borovoy to provided plurality of textures as mock artist's style to paint the image, since this would have provided the different styles to paint the image on screen.

Regarding claim 12, which is dependent on claim 11. Blank does not explicitly disclose selecting a mock artist's style from the plurality of mock artist's styles, and wherein the at least one texture corresponding to the selected mock artist's style is then used in the displaying step.

Mizutani teaches simulating painting brush stroke using many of textures corresponding to a plurality of mock artist's styles (Mizutani, col.1, lines 44-46, col.2, lines 31-35, col.4, lines 20-37; "oil painting" and "watercolor").

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have combined Mizutani and Blank, Itoh, and Borovoy to provided plurality of textures to paint the image, since this would have displayed the image in different styles.

Claims 24-25 are for a computer system performing the method of claims 11-12 respectively and are rejected under the same rationale.

Claim 26 is for computer system performing the method of claim 12 and is rejected under the same rationale. However, Blank also teaches displaying at least one texture corresponding to selected mock artist's style (Blank, col.34, lines 14-17; col.42, lines 51-65; col.46, lines 11-21 and col.51, lines 6-25; displaying red color to replace the yellow color for the selected portion of the image when the user selects the red color)

16. Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Blank in view of Itoh and Borovoy and further in view of Kiss, as applied to claim 29 above, and further in view of US or Kermisch, US 4,751,503, patent 1988, as provided in previous cited reference.

Regarding claim 30, which is dependent on claim 29. Blank does not explicitly teaches wherein the icon appearance during erasing is different than it appearance during recreating.

Kiss teaches an icon in a stylus shape appears on a display when painting an image (Kiss, fig.1, col.3, lines 39-41).

Kermisch teaches an airbrush icon in a round shape appears for painting an image (Kermisch, fig.4, col.50-55).

It would have been obvious to a person of ordinary skill in the art the time the invention was made to have combined Kiss and Kemisch to provide different tools to edit the image, since the combination would have displayed different shapes of icons for erasing and recreating portions of the image.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have combined Kermisch and Kiss' teaching into Blank, since the combination would have indicated the user to what function the user is using to edit/manipulate the image.

Claim Rejections - 35 USC § 102

17. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

18. Claims 1, 7, 14, 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Cohen, US 5,647,796 filed 11/1995.

Regarding independent claim 1, Cohen teaches the steps of:

- storing at least one display texture to a mock artist style (Cohen, col.1, lines 55-60; painting or drawing a picture inherently the step of storing at least one display texture);
- automatically selecting a plurality of separate portions of the electronically stored image according to a sequence, at least a plurality of such portions each including a plurality of pixels that are approximate to one another and together form a contiguous portion of the image display (Cohen, col.5, lines 3-15, lines 26-63; and figures 7A-7C and 8A-8C; automatically painting predetermined objects so that "objects will appear to be slowly painted upon the screen"; or automatically select many predetermined objects of a stored image according to a predefined sequence 1, 2, 3, 4, 5, 6, 7, 8, so that such objects are painted and displayed gradually); and
- automatically displaying, in the sequence, on a computer display device, a representations of each selected portion of the electronically stored image using at least one stored display texture in each selected portion, to create the display image gradually over time as a series of sequentially-displayed portions (Cohen, col.5, lines 3-15, lines 26-63; and figures 7A-7C and 8A-8C; automatically painting

predetermined objects so that "objects will appear to be slowly painted upon the screen"; or automatically displaying, in the predefined sequence 1, 2, 3, 4, 5, 6, 7, 8, on display screen, painting objects so that the objects are painted and displayed gradually).

Regarding independent claim 14, claim 14 is for a computer system performing the method of claim 23, and is rejected under the same rationale. Cohen further discloses:

- a memory storing an electronic image (Cohen, col.3, lines 10-43, computer processor must has a memory for storing an image in order to display on the image on the screen to the user);
- a monitor (Cohen, col.3, lines 33-43); and
- a memory storing at least one display texture corresponding to a mock artist style (Cohen, col.3, lines 10-43, computer processor must has a memory for storing at least one color texture to paint the image).

Regarding claim 7, which is dependent on claim 1. Refer to the rationale relied to reject claim 1, the limitation of "gradually displaying the representation for at least one portion" is included. The rationale is incorporated herein.

Claim 20 is for computer system performing the method of claim 7 and is rejected under the same rationale.

Claim Rejections - 35 USC § 103

19. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

20. Claims 2, 13, 15 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cohen as applied to claim 1 above, and further in view of Yamato et al., US 5,680,534, filed 1994.

Regarding dependent claim 2, which is dependent on claim 1. Cohen does not explicitly disclose the step of creating a hard copy of the image displayed on the monitor after the display image has been fully created by the display of all of the portions of the electronically stored image.

Yamato teaches a simulation game allow a user to paint an image including a printer and printer interface for printing the created image (Yamato, col.5, lines 30-37; col.6, lines 55-64 and col.20, lines 24-26).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have combined Yamato and Cohen to include a printer in the Cohen system to print the created image, since this would allow the user to have a copy of the image he/she was created.

Regarding dependent claim 13, which is dependent on claim 1. Cohen does not explicitly teach capturing an electronic image from an input device; and storing the captured electronic image as the electronically stored image.

Yamato teaches capturing an electronic image from an input device and storing the captured electronic image as the electronically stored image (Yamato, col.6, lines 57-64).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have combined Yamato and Cohen to provide means for capturing and storing an image, since it would have provide images for the user to colors and modify the image in a game system as Yamato disclosed.

Claims 17 and 15 are for a computer system performing the method of claims 2 and 13, respectively and are rejected under the same rationale.

21. **Claims 3-4, 6, 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cohen as applied to claim 23 above, and further in view of Venable, US 5,461,493, issued 1995.**

Regarding dependent claim 3, which is dependent on claim 1. Cohen does not explicitly disclose wherein the selecting step includes the step of automatically identifying groups of pixels in the electronically stored image which have similar display parameter values as portions, wherein the parameter values of each selected portion are different from the parameter values of the other selected portions.

Venable teaches identifying groups of pixels in an image which have similar display parameter value as portions to change color, wherein the parameter values of each selected

portion are different from the parameter values of the other selected portions (Venable, col.3, lines 11-19; col.4, lines 36-49 and col.8, lines 2-21; a color scale of values for saturation attribute is used to identify portions have the same color scale).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have combined Venable and Cohen to identify groups of portions of the image, since this would have enhanced painting the portions of the image which have the same value pixel as Venable suggested.

Regarding dependent claim 4, which is dependent on claim 3. Refer to the rationale relied to reject claim 3, "display parameter values is color values". is addressed. The rationale is incorporated herein.

Regarding dependent claim 6, which is dependent on claim 1. Refer to the rationale relied to reject to claim 3, the limitation of "identifying groups of pixels in the electronically stored image which have similar parameter values as single portions and determining a sequence for the portions of the electronically stored image such that separate portions having similar display parameter values are grouped in the sequence" is included. The rationale is incorporated herein.

Claim 18-19 are for a computer system performing the method of claims 3 and 6 respectively and are rejected under the same rationale.

22. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cohen as

applied to claim 1 above, and further in view of Simon, US 6,619,860 B1, filed 11/1997.

Regarding dependent claim 5, which is dependent on claim 1. Cohen does not explicitly disclose wherein the selecting step includes the step of determining a display sequence for the portions of the electronically stored image such that the display of the representation of at least a first selected portion in the sequence is not contiguous with the representation of another selected portion that is displayed immediately before the representation of the first selected portion, so that the display does not fill sequentially in contiguous areas.

Simon teaches wherein the selecting step includes the step of determining a display sequence for the portions of the electronically stored image such that the display of the representation of at least a first selected portion in the sequence is not contiguous with the representation of another selected portion that is displayed immediately before the representation of the first selected portion, so that the display does not fill sequentially in contiguous areas (Simon, fig.4, frames 80, 82 and 84, the display does not fill sequentially in contiguous areas since the hair portion is not contiguous with the body portion).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have combined Simon and Cohen to simulating the sequential production of the processed image, since this would have be interested to the user.

23. **Claims 8, 10, 21, 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cohen as applied to claim 23 above, and further in view of Kiss, US 5,687,304, issued priority filed 1994.**

Regarding dependent claim 8, which is dependent on claim 7. Cohen does not explicitly disclose wherein the displaying step further includes the step of displaying an icon on the monitor, and moving the icon across the monitor at areas corresponding to the selected portions.

Kiss teaches displaying an icon on the monitor, and moving the icon across the monitor at areas corresponding to the selected portions; displaying the representation of each selected portion along the path traversed by the icon (Kiss, col.1, lines 32-43; col.4, lines 26-31; and col.8, lines 5-14).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have combined Kiss into Cohen to provide a brush stroke on the screen during painting, since it would have provided realistic painting or drawing as Kiss disclose in col.8, lines 10-13. It is noted that display a moving icon across the areas for painting these areas was well known in the art at the time the invention was made (see Kermisch, US 4,751,503, filed 1984, col.4, lines 50-60).

Regarding dependent claim 10, which is dependent on claim 8. Cohen does not explicitly disclose wherein the representation of each selected portion is first displayed while the icon is at the display area corresponding to such portion.

Kiss teaches displaying an icon on the monitor, and moving the icon across the monitor at areas corresponding to the selected portions (Kiss, col.1, lines 32-43; col.4, lines 26-31; and col.8, lines 5-14).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have combined Kiss into Cohen to provide a brush stroke on the screen during painting, since it would have provide a realistic painting or drawing as Kiss disclose in col.8, lines 10-13. It is noted that display a moving icon across the areas for painting these areas was well known in the art at the time the invention was made (see Kermisch, US 4,751,503, filed 1984, col.4, lines 50-60).

Claim 21 and 23 are for a computer system performing the method of claims 8 and 10 respectively and are rejected under the same rationale.

24. Claims 9 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cohen further in view of Kiss as applied to claim 29 above, and further in view of Mizutani, US 5,844,565, priority filed 1994.

Regarding dependent claim 9, which is dependent on claim 8. Cohen does not explicitly teach wherein the icon is moved according to a predetermined pattern.

Mizutani teaches simulating brush strokes in a variety of directions, including perpendicular to enhance the simulation of painting techniques (Mizutani, col.2, lines 9-30 and col.7, lines 15-25).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have combined Mizutani and Cohen to provide directions of the brush stroke to paint portions of the image, since this would have enhanced the simulation of painting the image as Mizutani disclosed.

Claim 22 is for a computer system performing the method of claim 31 and is rejected under the same rationale.

25. **Claims 11-12, 16, 24-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cohen as applied to claim 1 above, and further in view of Mizutani, US 5,844,565, priority filed 1994.**

Regarding dependent claim 11, which is dependent on claim 1. Cohen does not explicitly disclose wherein the step of storing at least one texture includes the step of storing a plurality of textures corresponding to a plurality of mock artist's styles.

Mizutani teaches simulating painting brush stroke using many of texture corresponding to a plurality of mock artist's styles (Mizutani, col.1, lines 44-46, col.2, lines 31-35, col.4, lines 20-37; "oil painting" and "watercolor").

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have combined Mizutani and Cohen to provided plurality of textures to paint the image, since this would have provided the different styles to paint the image on screen.

Regarding dependent claim 12, which is dependent on claim 11. Cohen does not explicitly disclose selecting a mock artist's style from the plurality of mock artist's styles, and wherein the at least one texture corresponding to the selected mock artist's style is then used in the displaying step.

Mizutani teaches simulating painting brush stroke using many of textures corresponding to a plurality of mock artist's styles (Mizutani, col.1, lines 44-46, col.2, lines 31-35, col.4, lines 20-37; "oil painting" and "watercolor").

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have combined Mizutani and Cohen to provided plurality of texture to paint the image, since this would have displayed the image in different styles.

Regarding dependent claim 16, which is dependent on claim 15. Cohen teaches the limitations of claim 15 as explained above. Cohen does not explicitly disclose the image capture device is a video camera.

Mizutani teaches image capture device is a video camera (Mizutani, col.3, lines 46-50).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have combine Mizutani into Cohen and Yamato to offer means to capture images, since scanner or video camera is used to capture images.

Claims 24-25 are for a computer system performing the method of claims 11-12, respectively and are rejected under the same rationale.

Claim 26 is for computer system performing the method of claim 12 and is rejected under the same rationale. Cohen also teaches displaying at least one texture corresponding to selected mock artist's style (Cohen, Cohen, col.5, lines 3-15, lines 26-63; and figures 7A-7C and 8A-8C; automatically painting predetermined objects so that "objects will appear to be slowly painted upon the screen"; or automatically displaying, in the predefined sequence 1, 2, 3, 4, 5, 6,

7, 8, on display screen, painting objects so that the objects are painted and displayed gradually. These inherently a texture must be selected in order to paint the image).

26. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cohen as applied to claim 1 above and further in view of Blank, US 5,469,536, issued 1995.

Regarding dependent claim 5, which is dependent on claim 1. Cohen does not explicitly disclose wherein the selecting step includes the step of determining a display sequence for the portions of the electronically stored image such that the display of the representation of at least a first selected portion in the sequence is not contiguous with the representation of another selected portion that is displayed immediately before the representation of the first selected portion, so that the display does not fill sequentially in contiguous areas.

Blank teaches display of the representation of at least a first selected portion in the sequence is not contiguous with the representation of another selected portion that is displayed immediately before the representation of the first selected portion, so that the display does not fill sequentially in contiguous areas (Blank, col.37, lines 16-36 and col.51, lines 6-25, brushing separate portions which does not have contiguous pixel value);

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have combined Blank and Cohen to simulating the sequential production of the processed image, since this would have be interested to the user.

27. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cohen in view of Kiss as applied to claim 8 above and further in view of Blank, US 5,469,536, issued 1995.

Regarding dependent claim 28, which is dependent on claim 8. Cohen teaches automatically display portions of an image as disclosed above. However, Cohen does not teach after at least some of the selected portion are displayed, automatically deleting at least some of one or more portions and then recreating the deleted portions.

Blank teaches after at least some of the selected portion are displayed, deleting at least some of one or more portions and then recreating the deleted portions (Blank, col.7, lines1-11; col.49, lines 40-45).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have combined Blank into Cohen to display as well as erase portions of image, since the combination would have provide interesting to a user when a piece of image is appeared or disappeared on the screen.

28. Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cohen in view of Kiss, Blank as applied to claim 28 above, and further in view of Mizutani, US 5,844,565, priority filed 1994.

Regarding claim 29, which is dependent on claim 28. Cohen teaches automatically display portions of an image as disclosed above. However, Cohen does not explicitly disclose wherein the deleting takes the appearance of erasing, wherein the icon is automatically moved over the portions being deleted and then again as they are recreated. Mizutani teaches simulation brush strokes in including perpendicular to enhance the simulation of painting as well as erasing techniques (Mizutani, col.2, lines 9-30; col.5, lines 61-65 and col.7, lines 15-25).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have combined Mizutani and Cohen to provide directions of the brush stroke to paint or erase portions of the image, since this would have enhanced the simulation of painting the image as Mizutani disclosed.

29. Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cohen in view of Kiss, Blank and Mizutani, as applied to claim 29 above, and further in view of US or Kermisch, US 4,751,503, patent 1988, as provided in previous cited reference.

Regarding claim 30, which is dependent on claim 29. Blank does not explicitly teaches wherein the icon appearance during erasing is different than it appearance during recreating.

Kiss teaches an icon in a stylus shape appears on a display when painting an image (Kiss, fig.1, col.3, lines 39-41).

Kermisch teaches an airbrush icon in a round shape appears for painting an image (Kermisch, fig.4, col.50-55).

It would have been obvious to a person of ordinary skill in the art the time the invention was made to have combined Kiss and Kemisch to provide different tools to edit the image, since the combination would have displayed different shapes of icons for erasing and recreating portions of the image.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have combined Kermisch and Kiss' teaching into Cohen, since the combination would have provide different icons in different shapes which are attractive to the user during adding or deleting portions of the image.

Response to Arguments

30. Applicant's arguments filed on 06/23/2005 have been fully considered but they are not persuasive.

Applicants argue that "in the Blank and Itoh references neither step of accomplished automatically. Also, the references does not disclose the selection of separate portion of image according a sequence, and then displaying the textures for the portions in that sequence".

Examiner partially agrees. Blank's system allows painting a selected area of an image with freehand draw or air brush to apply different color on the selected area (Blank, col.44, lines 10-48); painting an area of the image by using a different texture, such as marble or wallpaper effect on the image (Blank, col.46, lines 11-28). Therefore, the user is able to paint different areas of the image with different texture in user's desire sequence and marble or wallpaper texture must be stored for the user to paint such areas. The step of "sequential displaying" must be occurred when the user paints different areas with different textures on the image. Examiner agrees that Blank does not teaches the step of selecting and displaying accomplished automatically. However, the combination of Blank and Borovoy teaches that feature as explained in the rejection above.

Applicants argue that "[n]othing in Cohen disclose or suggests automatic selection of separate portions of a stored image according to a sequence, nor the automatic display of those portions in the sequence ... both the portions to be displayed and the sequence of display is predetermined by the computer, and the computer takes the action in response to a user input".

This is not persuasive. Cohen teaches "the user is not required to react to any commands or visual on the display screen" (Cohen, col.5, lines 58-59) and as pointing out by the applicant that, Cohen teaches "portions to be displayed and the sequence of display is predetermined by the computer" Therefore the when a child shake a wand, the selecting and displaying step are performed by the computer without requiring the child to actually select a portion displayed on the screen.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thu V Huynh whose telephone number is (571) 272-4126. The examiner can normally be reached on Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen S Hong can be reached on (571) 272-4124. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TVH
September 13, 2005

STEPHEN HONG
SUPERVISORY PATENT EXAMINER